



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MQB/173979

PRELIMINARY RECITALS

Pursuant to a petition filed April 29, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regards to the denial of Medicare premium benefits under Medical Assistance (MA), a telephone hearing was held on May 25, 2016, at Milwaukee, Wisconsin. At the request of the petitioner, the record was held open for 10 days for the submission of additional information.

The issue for determination is whether the Department correctly denied the petitioner's application for Qualified Medicare Beneficiary premium payments due to income in excess of program limits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

█
█

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED], HSPC
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kenneth D. Duren, Assistant Administrator
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a 62 year-old resident of Milwaukee County. She lives alone. The petitioner applied for Qualified Medicare Beneficiary (QMB) coverage and benefits on or about February 15, 2016. See, Exhibit #1, p. 1.

2. On February 16, 2016, the Department issued a written Notice to the petitioner informing her that she was not eligible for Medicare Premium Assistance under the Qualified Medicare Beneficiary program (QMB), because her income is too high. Her income was counted as \$1,383.40 of Social Security benefits. After deduction of the \$20 disregard, net income was \$1,363.40. The agency determined that this net income exceeded the QMB income limit. See, Exhibit #7; and see, Exhibit #4, at p. 9.
3. The petitioner actually receives a net Social Security monthly benefit of \$1,278 because the Social Security Administration takes \$104.90 as a Medicare Part A & B premium payment directly from her benefit stream.
4. The case was pended while verifying information on a concurrent MA application, and on March 18, 2016, the agency received the verification and concluded that the petitioner's countable income exceeded the higher Specified Low-Income Medicare Beneficiary (SLMB) and Specified Low-Income Medicare Beneficiary Plus (SLMB+) income limits as well as the QMB income limit.
5. On April 29, 2016, the petitioner filed an appeal with the Division of Hearings & Appeals contesting the denial of any or all QMB Premium payments on her behalf by the Department.

DISCUSSION

Medicare is the health insurance program administered by the federal Centers for Medicare & Medicaid Services (CMS) for people over 65 and for certain younger disabled people. Medicare is divided into two types of health coverage. Hospitalization Insurance (Part A) pays hospital bills and certain skilled nursing facility expenses. Medical Insurance (Part B) pays doctors' bills and certain other charges.

Medicare, being an insurance program, charges premiums. Wisconsin *Medical Assistance* (MA) pays some or all Medicare premiums for eligible persons through the subprograms described below:

1. Qualified Medicare Beneficiary (QMB).
2. Specified Low-Income Medicare Beneficiary (SLMB).
3. Specified Low-Income Medicare Beneficiary Plus (SLMB+), also known as Qualifying Individuals – 1 (QI-1).
4. Qualified Disabled and Working Individuals (QDWI).

Medicaid Eligibility Handbook, App. 32.1.1. Subprograms 1 through 4 are collectively referred to as Medicare Premium Assistance programs.

The then-applicable income limit, in January, 2016, for QMB was up to 100% of the federal poverty level. For SLMB the limit was from 100% to 119%, and for SLMB+ it was 120% to 134% of the federal poverty level. *MEH*, Apps. 32.2 – 32.5. And see, *MEH*, App. 39.5. You must be working and qualified disabled for QDWI, and neither is relevant here, so the fourth subset, QDWI is barred to the petitioner.

At the time of the budget testing, 100% of the federal poverty level for a one person household was \$980.83, 120% was \$1,177, and 135% was \$1,324.13. *Id.*, App. 39.5.

Her gross income of \$1,383.40 exceeded all three eligibility levels for QMB, SLMB and SLMB+. She is simply not eligible for QMB, SLMB or SLMB+ as of March, 2016, or after. The Division's administrative law judges lack the powers of a court of equity. Rather, I am bound by the four corners of the law, as written. Her income is too high and her application was correctly denied.

In conclusion, the agency correctly determined that the petitioner's gross income exceeds the QMB, SLMB and SLMB+ income limits in March – May, 2016, and she is ineligible.

CONCLUSIONS OF LAW

That the Department correctly denied the petitioner's February 15, 2016, application for ongoing QMB, SLMB and SLMB+ benefits, because her gross income exceeded all three relevant income limits.

THEREFORE, it is

ORDERED

That the petition for review herein be, and the same hereby is, dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

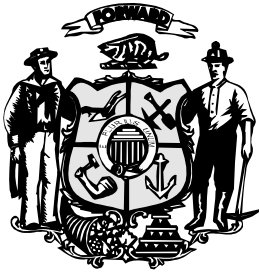
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 6th day of June, 2016

\sKenneth D. Duren, Assistant Administrator
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on June 6, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability